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MONTANA LEGISLATIVE HISTORY

Chapter 721 1991

Bill H 698 S _____ Original bill & history X C

H. Committee on BUSINESS & ECON. DEV.

Hearing Date(s) & EXEC ACTION	2/21	X C
		C
		C
		C
Date Out		C

S. Committee on BUSINESS & INDUSTRY

Hearing Date(s) & EXEC ACTION	3/21	X C
		C
		C
		C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

No MINUTES from CONFERENCE COMMITTEE

2/18 TABLED IN COMMITTEE

HB 695 INTRODUCED BY DAVIS, ET AL.
AUTHORIZE SECRETARY OF STATE TO CREATE ADVISORY COUNCILS

2/08	INTRODUCED		
2/08	REFERRED TO STATE ADMINISTRATION		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/12	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED		
2/12	PLACED ON CONSENT CALENDAR		
2/14	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/14	3RD READING PASSED	95	4
	TRANSMITTED TO SENATE		
2/15	FIRST READING		
2/15	REFERRED TO STATE ADMINISTRATION		
3/07	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/07	PLACED ON CONSENT CALENDAR		
3/11	3RD READING CONCURRED	43	6
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/16	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 119	EFFECTIVE DATE: 10/01/91	

HB 696 INTRODUCED BY J. RICE, ET AL.
INCREASE AND EXTEND FUNDING FOR STATEWIDE GENETICS PROGRAM

2/08	INTRODUCED		
2/08	REFERRED TO HUMAN SERVICES & AGING		
2/08	FIRST READING		
3/06	HEARING		
3/07	COMMITTEE REPORT—BILL PASSED		
3/08	REREFERRED TO APPROPRIATIONS		
3/13	REVISED FISCAL NOTE REQUESTED		
3/19	HEARING		
3/19	REVISED FISCAL NOTE RECEIVED		
3/21	REVISED FISCAL NOTE PRINTED		
3/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/28	2ND READING PASSED AS AMENDED	66	28
3/28	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
3/28	3RD READING PASSED	71	29
	TRANSMITTED TO SENATE		
3/28	FIRST READING		
3/28	REFERRED TO FINANCE & CLAIMS		
4/08	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/13	2ND READING CONCURRED	35	11
4/15	3RD READING CONCURRED	40	8
	RETURNED TO HOUSE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	76	20
4/18	3RD READING AMENDMENTS CONCURRED	81	18
4/20	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 638		

EFFECTIVE DATE: 07/01/91 - SECTIONS 1, 2, 3(1)

EFFECTIVE DATE: 06/30/93 - SECTION 3(2)

HB 697 INTRODUCED BY MCCAFFREE, ET AL.
ALLOW JUDGES OF COURTS OF LIMITED JURISDICTION TO SUMMON JURORS BY MAIL

2/08	INTRODUCED		
2/08	REFERRED TO JUDICIARY		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/14	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	95	2
	TRANSMITTED TO SENATE		
2/25	FIRST READING		
2/25	REFERRED TO JUDICIARY		
3/19	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/22	2ND READING CONCURRED	48	0
3/23	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE		
4/01	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		
4/01	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 351	EFFECTIVE DATE: 10/01/91	

HB 698 INTRODUCED BY SCOTT
REVISE TAP ROOM LAW TO INCLUDE BREWERS OF LESS THAN 60,000 BARRELS PER YEAR

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/08	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	86	14
2/26	3RD READING PASSED	87	12
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/21	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/23	2ND READING CONCURRED	48	0
3/25	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	98	0
4/11	CONFERENCE COMMITTEE APPOINTED		
4/17	CONFERENCE COMMITTEE REPORT NO. 1		
4/18	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	87	4
4/19	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	90	7
	SENATE		
4/16	CONFERENCE COMMITTEE APPOINTED		
4/17	CONFERENCE COMMITTEE REPORT NO. 1		
4/18	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0

4/19	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 721		

EFFECTIVE DATE: 10/01/91

HB 699 INTRODUCED BY ELLISON, ET AL.
EXEMPT TRAVERTINE AND BUILDING STONE FROM MINES NET PROCEEDS TAX

2/08	INTRODUCED		
2/08	REFERRED TO TAXATION		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/13	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/22	HEARING		
3/05	COMMITTEE REPORT—BILL PASSED		
4/03	2ND READING PASSED		
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY	71	28
4/03	3RD READING PASSED	72	28
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/06	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED		
4/09	2ND READING CONCURRED		
4/09	SEGREGATED FROM COMMITTE OF WHOLE REPORT	29	11
4/15	2ND READING CONCURRED AS AMENDED	34	11
4/16	3RD READING CONCURRED	48	0
		49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	96	2
4/19	3RD READING AMENDMENTS CONCURRED	90	7
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 700		

EFFECTIVE DATE: 4/26/91

HB 700 INTRODUCED BY T. NELSON
REVISE TERM OF HEALTH FACILITY LICENSE
BY REQUEST OF GOVERNOR

2/08	INTRODUCED		
2/08	REFERRED TO HUMAN SERVICES & AGING		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/13	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/20	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED		
2/23	2ND READING PASSED	91	7
2/26	3RD READING PASSED	93	6
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/25	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	49	0

	RETURNED TO HOUSE		
4/04	SIGNED BY SPEAKER		
4/04	SIGNED BY PRESIDENT		
4/05	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 405		

EFFECTIVE DATE: 10/01/91

HB 701 INTRODUCED BY DRISCOLL, ET AL.
PROVIDE STATE FUNDING FOR CLEAN COAL TECHNOLOGY PROJECTS

2/08	INTRODUCED		
2/08	REFERRED TO TAXATION		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
3/08	HEARING		
3/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/03	2ND READING PASSED	92	8
4/03	ON MOTION RULES SUSPENDED TO ALLOW 3RD READING THIS DAY		
4/03	3RD READING PASSED	92	8
	TRANSMITTED TO SENATE		
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/08	HEARING		
4/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/16	2ND READING CONCURRED	49	0
4/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING AMENDMENTS CONCURRED	93	3
4/19	3RD READING AMENDMENTS CONCURRED	90	8
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/24	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 722		

EFFECTIVE DATE: 7/01/91

HB 702 INTRODUCED BY DRISCOLL, ET AL.
COAL TAX FOR CLEAN COAL TECHNOLOGY

2/08	INTRODUCED		
2/08	REFERRED TO TAXATION		
2/08	FIRST READING		
2/08	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/22	FISCAL NOTE PRINTED		
3/08	HEARING		
3/15	REREFERRED TO APPROPRIATIONS		
3/21	HEARING		
3/23	TABLED IN COMMITTEE		

HB 703 INTRODUCED BY BRADLEY, ET AL.
SCIENCE AND TECHNOLOGY INVESTMENT IN VENTURE CAPITAL COMPANIES

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/08	FIRST READING		
2/22	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/26	2ND READING PASSED AS AMENDED	96	3
2/26	FISCAL NOTE REQUESTED		
2/27	3RD READING PASSED	94	5

HOUSE BILL NO. 698

INTRODUCED BY SCOTT

IN THE HOUSE

FEBRUARY 8, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 22, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 23, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 25, 1991	ENGROSSING REPORT.
FEBRUARY 26, 1991	THIRD READING, PASSED. AYES, 87; NOES, 12.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 22, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 23, 1991	SECOND READING, CONCURRED IN.
MARCH 25, 1991	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS NOT CONCURRED IN.
APRIL 11, 1991	ON MOTION, CONFERENCE COMMITTEE

REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991 — ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 17, 1991 — CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 18, 1991 — CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 18, 1991 — SECOND READING, CONFERENCE COMMITTEE REPORT ADOPTED.

APRIL 19, 1991 — THIRD READING, CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 19, 1991 — CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1991 — SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

INTRODUCED BY HOUSE BILL NO. 698

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAPROOM EXCEPTION TO INCLUDE ANY BREWER LICENSED BY THE UNITED STATES WHO MANUFACTURES LESS THAN 60,000 BARRELS OF BEER A YEAR; AND AMENDING SECTION 16-3-214, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-214, MCA, is amended to read:

"**16-3-214. Beer sales by brewers -- ~~tap-room~~ taproom exception.** (1) Subject to the limitations and restrictions contained in this code, any brewer duly licensed as such by the United States of America who manufactures less than 60,000 barrels of beer ~~in the state of Montana~~ a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, shall be licensed by the department, in accordance with the provisions of this code and such rules as may be prescribed by the department, to:

(a) sell and deliver beer to:

(i) a ~~vendor~~ wholesaler;

(ii) any retail licensees who are entitled to purchase beer from a brewer under this code; or

(iii) the public; ~~or~~

(b) provide, without charge, its own products for consumption on its licensed premises; or

(c) do any one or more of such acts of sale and delivery of beer.

(2) No additional license fee may be imposed on a brewery providing, without charge, its own products on its licensed premises for consumption on the premises."

-End-

INTRODUCED BILL
HB 698

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on February 21, 1991, at 7:00 a.m.

ROLL CALL

Members Present:
Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Bills to be heard were HB 774, HJR 33, HB 698, HB 707, HB 847. Executive action on HB 774, HB 707

HEARING ON HB 774

Presentation and Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 88, Billings, explained HB 774 is an Act to authorize a person to import illegal gambling devices if the person is licensed to manufacture the devices for export; and amending Section 23-5-152, MCA. In current law any kind of gambling device can be manufactured. It can be sold, they are not regulated under the law. They can manufacture and ship them out. They can be brought them back in to add parts or be assembled. HB 774 has to do with manufacturing. Page 2, lines 8-12, Subsection

develop a long-range planning process for Montana communities. This actually started out as a bill to have the Department of Commerce work on this planning process in other areas of the state. When they looked at the law they found the Department of Commerce already had authority and permission to do planning processes in communities. It was turned into a Joint Resolution to encourage the planning process. 750 people showed up at 18 community meetings, 350 people at a citywide meeting that was open to anyone who chose to come. The people who participated and whose lives were touched by Vision 2000 totaled 83 centuries of living in Great Falls. Some of the things originating from Vision 2000 are Rivers Edge Bike Trail, a former railroad pass turned into an eight mile biking, hiking and walking trail, and a citywide recycling project and the embryo of a labor management cooperation group. Twenty groups are now working with Vision 2000.

Proponents' Testimony:

Bob Heffner, Administrator, Business Development Division, said community planning is one of the current program areas of the Business Development Division. They operate a Certified Communities program for that purpose. Any sort of economic development, whether it be a business expansion or relocation from another area takes place at some locality.

Jerry Tevigia, Montana Department of Commerce, said he operates the Certified Communities Program. In one part of the program they do conduct strategic planning. To date they have worked with 42 communities in this process. Currently they are working with about 10. It is not as sophisticated as the type of operations done in Great Falls. However, they do have a presence out there and with additional resources they would be able to do additional projects.

Opponents' Testimony: None

Closing by Sponsor:

REP. RICE said they had a totally privately funded program of $22,000 in Great Falls, raised by business, labor and individuals to promote their public projects.

EXECUTIVE ACTION ON HJR 33

Motion/Vote: **REP. PAVLOVICH moved HJR 33 DO PASS. Motion passed unanimously. REP. WALLIN was absent.**

HEARING ON HB 698

Presentation and Opening by Sponsor:

REP. SCOTT, HD 97, Balentine, informed the Committee that HB 698

is a bill concerning the brewers of beer. It is an Act revising the taproom exception to include any brewer licensed by the United States who manufactures less than 60,000 barrels of beer a year; and amending Section 16-3-214, MCA. Montana has a law stating that any importer of beer has to go through a distributor or vendor to distribute their product. If the brewer is within the state, he does not. This is discriminatory. It has not been challenged in court yet, but it probably will be someday. This bill puts a cap on this. It puts the Montana brewers on the same plane as the out-of-state brewers. If they produce more than 60,000 barrels of beer per year, they will have to go through a distributor. Kessler Brewery brews a little less than 4,000 barrels a year and they can sell direct. Someone like Anchor Steam that is distributed nationally, is producing close to 60,000 barrels. They can come in and say they want to sell direct. The State of Montana would say no, they would have to go through a distributor. They can look at someone like Kessler and say discrimination. The Montana distributors do a very good job and at present they handle all of the out-of-state microbreweries. This would protect them.

Proponents' Testimony:

Roger Tippy presented the Committee with a "Fact Sheet on HB 698" explaining the difference between Montana and out-of-state breweries. **EXHIBIT 3.**

Opponents' Testimony: None

Questions from the Committee: None

Closing by Sponsor:

REP. SCOTT said this bill stops major grocery stores from bringing in their own label and still protects the microbreweries in the state.

EXECUTIVE ACTION ON HB 698

MOTION/VOTE: **REP. PAVLOVICH moved HB 698 DO PASS. He moved the amendments be adopted. EXHIBIT 4. The amendments were unanimously adopted. Motion HB 698 DO PASS AS AMENDED carried unanimously.**

HEARING ON HB 707

Presentation and Opening Statement by Sponsor:

REP. WILLIAM 'RED' MENAHAN, HD 67, Anaconda, informed the Committee that the bill allows for a cable district to be developed by people in their communities. It is an Act to expand the authority of television districts to include the construction of cable television systems; and amending Section 7-13-2502, MCA.

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE Feb. 21, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE BARNETT	✓		
REP. STEVE BENEDICT	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. STELLA JEAN HANSEN	✓		
REP. H.S."SONNY" HANSON	✓		
REP. TOM KILPATRICK	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. BOB PAVLOVICH	✓		
REP. JOHN SCOTT	✓		
REP. DON STEPPLER	✓		
REP. ROLPH TUNBY	✓		
REP. NORM WALLIN	✓		
REP. SHEILA RICE, VICE-CHAIR	✓		
REP. BOB BACHINI, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 698 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Page 1, line 21.
Following: "beer"
Insert: "from its storage depot or brewery located in Montana"

EXHIBIT 3
DATE 2/21/91
HB 698

Montana Beer & Wine Wholesalers Association
Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

FACT SHEET -- HOUSE BILL 698

The situation: Montana laws governing breweries treat in-state and out-of-state breweries differently. All out-of-state breweries must ship their beer to a licensed wholesaler's warehouse or to a storage depot in Montana licensed by the Liquor Division, from which they can sell only to wholesalers. In-state breweries (there are now three microbreweries licensed and operating: Kessler in Helena, Bayern in Missoula, Great Northern in Columbia Falls) may sell to wholesalers, retailers, or consumers.

The problem: The 21st amendment to the U.S. Constitution used to be interpreted by the federal courts as a broad grant of power to the states to regulate beverage alcohol marketing without considering the Commerce Clause or the Equal Protection Clause. No longer is this the prevailing interpretation. The U.S. Supreme Court now talks about states' "core powers" under the 21st amendment--those which promote temperance and combat the evils which either led to Prohibition or arose under Prohibition--which can override other parts of the Constitution. The states' peripheral powers under the 21st amendment must be balanced against the Commerce Clause and Equal Protection Clause's limits on states.

Under this interpretation, Montana's current laws on breweries could be subject to challenge. The social considerations which led to a three-tier system for the marketing of beer would apply as much to beer brewed here as to beer brewed in other states.

If Montana breweries can sell to anyone of legal age, in any amount while out-of-state brewers' sales of beer is so strictly controlled, the effect may be to discriminate against interstate commerce without a justification under the core powers of the 21st amendment.

The solution: To allow the exemption from the full controls on beer marketing on the basis of the brewery's size rather than its location. 60,000 barrels of annual beer production is the amount set by Congress for a lower rate of federal excise tax, so the breweries qualifying for this small-brewer status are available from the U.S. Treasury Department.

Most microbreweries in the United States are producing under 60,000 barrels. The Anchor Brewing Co. of San Francisco, makers of Anchor Steam and several other specialty brews, may have recently passed this level. If so, it would join sixteen others, ranging in size from Anheuser-Busch to the Latrobe Brewing Co. which makes

ROGER FIRRY, Helena

EXHIBIT 4
DATE 2/21/91
HB 698

Amendments to House Bill No. 698
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 21, 1991

1. Page 1, line 21.
Following: "beer"
Insert: "from its storage depot or brewery located in Montana"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Econ Dev. COMMITTEE BILL NO. HB698 HB707

DATE 2/21/91 SPONSOR(S) Reps. John Scott, Rep. Menahan

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Kris Imsland	Myself	707		✓
LINDA STOLL-ANDERSON	Lewis & Clark County	707		✓
Paul Spengler	MYSELF	707		✓
Roger Tippy	Mt Beer & Wine Wholesalers	698		
Tom Hannon	Mt. Cable T.V. Assoc.	707	✓	
Mike Murray	myself	707		✓
B.R. Salmonsen	Dept	707		✓
mike mason	MCTA	707	✓	
Diana Koon	Dept of Revenue	698	—	—
BOB MASSEMAN	SELF	707		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE BILL NO. HB 698 HB 707

DATE FEBRUARY 21, 199 SPONSOR(S) REP. JOHN SCOTT REP. MENAHAN

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
CLYDE JARVIS	MYSELF	707		✓
WES Huffman	TCI Cablevision (Gt Falls	707	✓	
Bonnie Hansen	TCI Cablevision - Glasgow	707	✓	
Billy Clark	TCI Cablevision Anaconda	707	✓	
Michael Miller	Rock Assc - Libby	707	✓	
Don D. Shaw	Cable TV of Harlo	707	✓	
Tom GLENDENNING	TCI CABLEVISION HELENA	707	✓	
Ken Young	Cable Montana	707	✓	
Steve Dorman	TCI Cablevision Butte	707	✓	
Andrew M. Bostwick	TCI - CATV Butte	707	✓	
Susan D. Loveless	myself	707		✓
Lisa Loveless	myself	707		✓
Carol Dorman	myself	707		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Senator Thayer moved SJR 26 do pass.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion by Senator Thayer that SJR 26 do pass passed unanimously.

HEARING ON HOUSE BILL 698

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that this bill is two-fold. We have a potential for a real problem within our distributorship on the sale of beer. As it is today, any out of state brewery has to go through the three tier system, which is brewer, wholesaler, and retailer. An instate brewery does not have to go through the three tier system. This could be considered discriminatory today. This bill puts a cap of sixty thousand barrels. Any brewery that produces sixty thousand barrels a year has to go through the three tier system. At present, Kessler brewery in Helena brews approximately four thousand barrels. This bill allows a lot of growth with the micro brewers of Montana. It promotes business in Montana. It protects the state. With the tap room portion of the bill where they allow the tap room without charge, it will get more tourists to turn off some of our interstate highways and stop in these communities and test the beer, and hopefully stop and buy some.

Proponents' Testimony:

Roger Tippy, representing the Montana beer and wine wholesaler's association, stated that the problem is that the small micro breweries in state have a number of privileges under the law which are spelled out in section 16-32-14 starting on page one. The instate brewery can, under existing law, sell directly to any retailer. An instate brewer can sell directly to the public, and they can have the free sample area in their own brewery. The aspects of the present law that allow the instate brewers to sell directly to retailers or consumers when no out of state brewery can do this are what give us problems. He stated that his handouts summarize his testimony (See Exhibit 4, and Exhibit 4A).

Mark Staples, representing the Montana tavern association, stated that there was a bill earlier that kessler came out with which was they could sell their product from the kessler brewery

directly to the public. We opposed it on behalf of all of the people who had made investments in taverns and paying off their mortgages and licenses, but particularly on behalf of those people in Helena, Montana, who by putting this product on tap and basically been the people that make kessler go. The taverns are the people that support kessler when they couldn't get going, they couldn't get distribution or get it any place else. This bill in section one allows them to sell and deliver beer to the public right out of their place. We pay a great deal of money for that privilege, and we also pay a great deal of money to support and establish kessler's very popularity in Helena, Montana. We do not think it is fair that they should be able to compete with the people that basically created that market for them. The Montana tavern association is very opposed to kessler being able to sell it to the public off the dock. He proposed to amend HB 698 to strike line three in section one, and line twenty five. He proposed that sub section two of section one be amended by inserting "during normal business hours".

Opponents' Testimony:

None

Questions From Committee Members:

Senator Noble asked Representative Scott if he agreed with the amendments proposed by Mark Staples.

Representative Scott stated that he feels that the real intent of the bill with the amendments make it more workable for the people in the tavern industry.

Senator Thayer asked if the micro breweries, such as Kessler, came in to oppose this bill in the house.

Roger Tippy replied that the breweries did not, because they took out some of the provisions restricting their direct sales to the public or the retailers.

Senator Gage asked if there is a section in the code that deals with the breweries that sell over sixty thousand barrels.

Roger Tippy replied that the general law right now deal with breweries in two ways, regardless of size, if they are out of state their coming through the regular three tier system. Regardless of size, if they are in state their coming through this section which allows them to sell under any law.

Senator Lynch asked Representative Scott why he picked sixty thousand barrels.

Representative Scott replied that sixty thousand is the cut off point on the federal level between a micro brewery and a major brewery.

Senator Lynch asked if Roger Tippy had any problems with the amendments proposed by Mark Staples.

Roger Tippy stated that he did not have a problem with the amendments proposed by Mark Staples.

Closing by Sponsor:

Representative John Scott closed by saying that the reason that a brewer goes through a distributor is because part of the service that the distributor offers is he gets out and markets the product, he keeps the product rotated out, he keeps the area in the stores where the product is being sold clean. He doesn't think that there is a threat of a brewery in Massachusetts setting up a warehouse in Montana, it would be good for Montana, because they would have to man that warehouse. This bill is for the Montana micro brewers.

EXECUTIVE ACTION ON HOUSE BILL 698

Motion:

Senator Noble moved to amend HB 698 with the amendments proposed by Roger Tippy.

Senator Kennedy moved to amend HB 698 with the amendments proposed by Mark Staples.

Senator Noble moved HB 698 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made by Senator Noble to amend HB 698 passed unanimously.

The motion made by Senator Kennedy to amend HB 698 passed 8 to 1 vote.

The motion made by Senator Noble that HB 698 be concurred in as amended passed unanimously. Senator Williams will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 252

Motion:

Senator Gage moved to amend HB 252 with some technical amendments prepared by Bart Campbell.

Senator Thayer moved to amend HB 252 by changing the forty five days to thirty days on the bank portion of the bill.

Senator Thayer moved to amend HB 252 on the right to claim the lien from twenty to ten days.

Senator Gage moved to amend HB 252 on page three, line five, by inserting a section that when a notice is delivered there must

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/21/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER			
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY			
SENATOR LYNCH	X		

Each day attach to minutes.

DATE 3/21/91

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Don Judge	MT. St. AFL-CIO	SJR 23	X	
Diana Koon	Dept of Revenue	HB698	—	—
Bob Heiser	UFCW	SJR 26	X	
Lars Ericson	Montana Carpenters	SJR 26	X	
Roger Tippy	Mt Beer & Wine Wholesalers	HB698	X	
Dave Barnhill	MT. Ins Dept.	SJR 26	+	
Riley Johnson	NFIB	SJR 26	X	
Steve Turkiewicz	Mt. Auto Dealers Assn	SJR 26	X	
Jim Tutwiler	MT Chamber Com	SJR 26	✓	
Dan Edwards	OCPU	SJR 26	X	
Judith Carlson	MT Chp NASW	SJR 26	X	
Larry Akey	MT Assoc of Life Underwriters	SJR 26	X	

(Please leave prepared statement with Secretary)

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3/21/91
BILL NO. HB 698

Montana Beer & Wine Wholesalers Association
Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

FACT SHEET -- HOUSE BILL 698

The situation: Montana laws governing breweries treat in-state and out-of-state breweries differently. All out-of-state breweries must ship their beer to a licensed wholesaler's warehouse or to a storage depot in Montana licensed by the Liquor Division, from which they can sell only to wholesalers. In-state breweries (there are now three microbreweries licensed and operating: Kessler in Helena, Bayern in Missoula, Great Northern in Columbia Falls) may sell to wholesalers, retailers, or consumers.

The problem: The 21st amendment to the U.S. Constitution used to be interpreted by the federal courts as a broad grant of power to the states to regulate beverage alcohol marketing without considering the Commerce Clause or the Equal Protection Clause. No longer is this the prevailing interpretation. The U.S. Supreme Court now talks about states' "core powers" under the 21st amendment--those which promote temperance and combat the evils which either led to Prohibition or arose under Prohibition--which can override other parts of the Constitution. The states' peripheral powers under the 21st amendment must be balanced against the Commerce Clause and Equal Protection Clause's limits on states.

Under this interpretation, Montana's current laws on breweries could be subject to challenge. The social considerations which led to a three-tier system for the marketing of beer would apply as much to beer brewed here as to beer brewed in other states.

If Montana breweries can sell to anyone of legal age, in any amount while out-of-state brewers' sales of beer is so strictly controlled, the effect may be to discriminate against interstate commerce without a justification under the core powers of the 21st amendment.

The solution: To allow the exemption from the full controls on beer marketing on the basis of the brewery's size rather than its location. 60,000 barrels of annual beer production is the amount set by Congress for a lower rate of federal excise tax, so the breweries qualifying for this small-brewer status are available from the U.S. Treasury Department.

Most microbreweries in the United States are producing under 60,000 barrels. The Anchor Brewing Co. of San Francisco, makers of Anchor Steam and several other specialty brews, may have recently passed this level. If so, it would join sixteen others, ranging in size from Anheuser-Busch to the Latrobe Brewing Co. which makes

Rolling Rock beer in Pennsylvania. The three Montana brewers are well under this level. Their 1988 production was estimated by Modern Brewery Age as follows:

Kessler	3,500 barrels
Bayern	1,000 barrels
Great Northern	N/A

If Kessler hit 6,000 barrels in 1990, it would have to grow 1000% before its current marketing practices were affected by HB698. The other effect of this bill is to allow an out-of-state brewery to license a storage depot in Montana and sell beer from that storage depot to retailers and consumers. A microbrewery in Coeur d'Alene or Spokane could, for instance, license a storage depot in Missoula or Kalispell to market its beer. This is unlikely, since the total annual fees to be licensed as a brewer and then to have a storage depot would come to $900.

There is a rational basis for treating large brewers and small brewers differently. The small brewers need more flexible marketing arrangements while they are getting off the ground. They usually sell their beers in a very limited area, so they are not subjecting the product to the risk of spoilage in long shipments. The quality control service which wholesalers provide to retailers with the national beers is a service the microbrewers can also provide in their own localities.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO 4A
DATE 3/21/91
BILL NO HB698

Montana Beer & Wine Wholesalers Association
Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

House Bill 698
Third reading bill
Amendment proposed by Wholesalers Association

Page 2, line 9
Following: line 8
Insert: "(3) This section does not prohibit a brewer from shipping and selling beer directly to a wholesaler from a brewery located outside Montana under the provisions of 16-3-230."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/4/91 Bill No. HB 698 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: STAPLES AMENDMTS

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB698 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: AMENDMENTS - TIPPY

Amendments to House Bill No. 698
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 21, 1991

1. Title, line 7.
Following: "YEAR;"
Insert: "ELIMINATING SALES TO THE PUBLIC;"

2. Page 1, line 23.
Following: ";"
Insert: "or"

3. Page 1, line 25.
Strike: "or"

4. Page 2, line 1.
Strike: subsection (iii) in its entirety

5. Page 2, line 3.
Following: "premises"
Insert: "during normal business hours"

6. Page 2, line 9.
Following: line 8
Insert: "(3) This section does not prohibit a brewer located outside of Montana from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/21/91 Bill No. HB 695 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: BE CONCURRED IN AS AMENDED
SN WILLIAMS TO CARRY

SENATE STANDING COMMITTEE REPORT

March 21, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 698 (third reading copy -- blue), respectfully report that House Bill No. 698 be amended and as so amended be concurred in:

1. Title, line 7.
Following: "YEAR;"
Insert: "ELIMINATING SALES TO THE PUBLIC;"

2. Page 1, line 23.
Following: ";"
Insert: "or"

3. Page 1, line 25.
Strike: "or"

4. Page 2, line 1.
Strike: subsection (iii) in its entirety

5. Page 2, line 3.
Following: "premises"
Insert: "during normal business hours"

6. Page 2, line 9.
Following: line 8
Insert: "(3) This section does not prohibit a brewer located outside of Montana from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

Signed: _____
John "J.D." Lynch, Chairman

3-21-91
Amd. Coord.

3-21-91
Sec. of Senate